

## **400           ADOPTION**

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## **401.2          Philosophy And Purpose**

The Child and Family Services Adoption Program helps children become members of an adoptive family that can meet the unique needs of the child.

## 401.1 Adoptive Family Recruitment

### Major objectives:

- A. Child and Family Services will utilize private child placement agencies or adoption exchanges if necessary to find adoptive families in or out of state.
- B. In addition, other recruitment activities may include media coverage, newspaper listings, radio spots, or adoption parties in-state or out-of-state.

### **Applicable Law**

Utah Code Ann. [§62A-4a-106](#). Services provided by division.

Utah Code Ann. [§62A-4a-607](#). Promotion of adoption -- Agency notice to potential adoptive parents.

Administrative Rule [R512-41](#). Qualifying Adoptive Families and Adoption Placement.

### Procedures

- A. Adoptive Family Recruitment Plan - Annually, in coordination with the state adoption specialist, each region will develop a recruitment plan. Regions may be requested to participate with additional recruitment efforts. Recruitment efforts shall be coordinated with the Utah Foster Care Foundation.
- B. Plan Requirements - The recruitment plan will at a minimum:
  - 1. Establish the number of adoptive homes needed, including specific needs of the children they anticipate placing;
  - 2. Identify retention and training components;
  - 3. Identify advertising activities;
  - 4. Identify other agencies or resources that will be contacted.

## 401.2 Qualifying An Adoptive Family

### Major objectives:

Families who wish to become adoptive families, including kin or Child and Family Services employees, must meet all of the following requirements:

- A. Complete adoption training program approved by Child and Family Services (preferably before the child is placed in the home).
- B. Be assessed and approved as an adoptive family following completion of a home study by a licensed child placement agency.
- C. Obtain a foster care license issued by the Department of Human Services, Office of Licensing, or meet the same standards, or receive a written waiver of a standard.
- D. Receive a determination by Child and Family Services that no conflict of interest exists in the adoption process.

### **Applicable Law**

Utah Code Ann. [§78-30-1](#). Who may adopt -- Adoption of minor -- Adoption of adult.  
Administrative Rule [R512-40](#). Adoptive Home Studies, Recruitment, Approval.

### Procedures

- A. Staff members of Child and Family Services may apply to adopt and may adopt children in State custody in the following manner:
  - 1. The person applies in the region of residence.
  - 2. The home study will be completed by staff of another region on a cooperative basis upon the request of the regional director.
  - 3. Approval of placement of a child in a staff member's home will be by the region having custody of the child. If the prospective adoptive parent is from the same region as the child, the placing committee will consist of the child's worker, outside child welfare specialists, and the State Adoption Specialist. Supervision will be by the placing region, unless the child and prospective parent are from the same region, in which case, another region will provide supervision.
- B. Adoption Assessment (Home Study) Requirements - The caseworker will ensure that the following requirements are included in an adoption assessment

consistent with the standards of the Child Welfare League of America (the assessment may be done by a private child placement agency or Child and Family Services):

1. Criminal background checks of all adults present in the home;
2. Child abuse screening of all adults present in the home;
3. Autobiography of parent(s) and family members;
4. Behavioral assessment of parent(s) and children living at home;
5. Health status verification of parent(s) and children living at home;
6. Financial status verification;
7. Home safety and health assessment;
8. Assessment of parenting skills for children living at home;
9. Recommendation - types of children that are appropriate for prospective adoptive family.

### 401.3 Matching The Child And The Adoptive Family

Major objectives:

- A. In the matching process, the selection of an adoptive family will be in the best interest of the child.
- B. The adoption decision must be based on a thorough assessment of the child's current and potential developmental, medical, emotional, and educational needs.
- C. The ability of the adoptive or foster/adoptive care family to successfully meet the child's needs and to love and accept the child as a fully integrated member of the family must be considered.
- D. Child and Family Services shall comply with The Interethnic Placement Act.
- E. Sibling groups should not be separated. When separation is necessary to protect the well-being of one or more children in the sibling group, all reasonable efforts must be made to maintain contact between siblings.

### Applicable Law

#### 42 United States Code Section 1996b - Interethnic Adoption

(1) Prohibited Conduct

A person or government that is involved in adoption or foster care placements may not-

(A) deny to any individual the opportunity to become an adoptive or foster care parent, on the basis of the race color, or national origin of the individual, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved.

Procedures

- A. Child's Preference - The child's preference may be considered, if they have the capacity to express a preference.
- B. Foster Care Family Preference - A foster care family (or other caregiver with physical custody) of the child may be given preferential consideration for adoption if the child has substantial emotional ties with the foster

family/caregiver and if removal of the child from the foster family/caregiver would be detrimental to the child's well-being.

- D. Geographic Boundaries - Geographic boundaries alone should not present barriers or delays to the selection of an adoptive home.
- E. Indian Child Welfare Act (ICWA) - The ICWA takes precedents for an adoption of an Indian child who is a member of a federally recognized tribe or Alaskan native village.

## 401.4 Adoption Decision

### Major objectives:

Permanency decisions should be made in a timely manner, recognizing the child's developmental needs and sense of time. If not already in the adoptive home, Child and Family Services shall make intensive efforts to place the child with an adoptive family within 30 days after the court has freed the child for adoption. Adoptive families must commence all requirements for approval, if any early placement is made.

### **Applicable Law**

Utah Code Ann. [§62A-4a-106](#). Services provided by division.

Administrative Rule [R501-7-10](#). Services to Adoptive Parents.

### Procedures

- A. Child and Family Services will appoint and convene an adoption committee or committees to select an adoptive or foster/adoptive care family that is in the best interest of the child and to determine the level of adoption assistance, if any. The committee is also responsible for considering removal of the child from a placement.
- B. The adoption committee should consist of at least three members to include senior level Child and Family Services staff and one or more members from an outside agency with expertise in adoption and foster care.
- C. Anyone who has information regarding the child and the potential matching families may be invited by the committee to present information but not participate in the deliberations. The committee will reach a decision through a consensus. The committee will submit their recommendation to the region director or the Child and Family Services director, if needed, who will make the final decision.
- D. The committee will make and retain a written record of their proceedings. All proceedings are confidential.
- E. Any member of the committee who has a potential conflict of interest must recuse himself or herself from the proceeding.
- F. When the adoptive family for the child has been approved, the caseworker will notify the family in writing of their selection.



- G. The caseworker shall provide detailed information about the child to the prospective adoptive parents, allowing sufficient time for the prospective adoptive parents to make an informed decision regarding placement of the child in their home. The information given to the adoptive parents must be a full disclosure of all information available and committed to writing. Release of all documents is subject to the Government Records Management Act (GRAMA). The adoptive parent(s) shall be advised of possible financial and medical assistance available to meet the special needs of the child. The caseworker and the prospective adoptive parents will acknowledge receipt of the information by signing the Child and Family Services' information disclosure form. The caseworker shall respond to questions or concerns of the potential adoptive parents. When relevant, the caseworker shall encourage adoptive parents to consult with other family members living in the home in making the decision. The prospective parents shall have the opportunity to meet the child prior to permanent placement.
1. The prospective adoptive parents should review the child's file before making the life-long decision to adopt. The file may contain information that will help the family decide if they have the skills and support to raise this child. The file also has important documents that the family would want to copy, for example immunization records and school placement information. [See: Department of Human Services, Office of Licensing, Child Placing Agencies, [R501-7-7](#), Services for Children and [R501-7-9](#) Services During and After Placement.]
  2. The prospective adoptive parents need to know that the information in the child's file is important in two ways. First, it will help them decide whether or not they should adopt the child, and secondly, this information is part of the child's history. The prospective adoptive parents should gather information from the file and share it with the child as they grow. Information from the file will help the child understand themselves and their history.
  3. Child and Family Services has a duty to report all information about a child to prospective adoptive parents. All information about the "child" may be given to prospective adoptive parents because Child and Family Services is the "legal guardian" and thus has the legal grounds to disclose the child's information.
    - a. Licensed foster parents have access to all information contained in the child's file as they are contracted by Child and Family Services as part of the team in caring for the child. They are, thus, considered the "agency" under the law. This means that licensed

- foster parents who are considering adopting a child in Child and Family Services custody would have access to all the information in the child's Child and Family Services file. GRAMA does not apply to licensed foster parents.
- b. Prospective adoptive parents, who are not licensed foster parents, fall under the GRAMA statute. They do not have access to the biological parents' medical, psychological, or other personal information.
  - c. GRAMA says that there cannot be disclosure of biological parents' nor foster parents' medical, psychological, or other personal information.
  - d. Child and Family Services must use prudent judgment in helping non-licensed prospective adoptive parents have information about the child that may be important for the stability of the child's adoptive placement. General information could be shared in a non-identifying way.
  - e. Utah Code Ann. [§78-30-17](#) states that adoptive parents may have the Health Department's "Vital Statistics" information that contains medical, psychological, and social history about the child's biological family. Child and Family Services collects the same information on the 'Family History' form. A permanency worker would want to transfer all the information from the 'Family History' form to the Vital Statistics 'Non-Identifying Health, Genetic, and Social Histories' form for non-licensed adoptive parents.
  - f. The prospective adoptive parents should be aware that the information in the file is often subjective opinions of the caseworker or therapist written at one time in the child's life. Circumstances and the child's development can change the way a child behaves and adjusts to current life situations. For instance, the child may have received many different mental health diagnoses. The mental health diagnoses in a child's file is affected by each therapist's interpretation, the child's developmental stage, factors in the child's environment, and different life circumstances.
4. Child and Family Services File Review Guidelines.
- a. The confidentiality agreement must be signed by the prospective adoptive parents. [SAFE form DCFS02.]
  - b. The caseworker should orient prospective adoptive parents to the structure of the files and where information is located.

- c. The caseworker should counsel prospective adoptive parents to consider specific types of information, such as medical conditions, disabilities, mental health diagnoses, placements and transfers, educational needs, and other considerations for the child.
- d. The Prospective Adoptive Parent's Guide to a Child's File Information directs the prospective adoptive parents to look for specific information they will need to parent the child and identify information to copy for future reference. [Red type identifies information to copy for the prospective parents, if they decide to adopt the child. Originals of pictures, letters, and belongings should be given to the family adopting the child. Copies can be retained in the file.]
  - i. Medical Information: Immunizations, all allergies including food allergies, disabilities and treatments, current medications and implications of discontinuing medications, history of illnesses. Disabilities and treatments. Conditions from abuse or neglect, serious accidents, surgeries, past doctors, and hospital of birth.
  - ii. Dental Information: Dental records, past dentists, and orthodontic work, and orthodontist.
  - iii. Educational Information: Schools and grades, evaluations, special education plans such as Individual Education Plans (IEP) or Student Education and Occupational Plans (SEOP), learning disability including specific disability, and test results.
  - iv. Mental Health Information: Current and prior therapists and history of treatment, diagnoses, and especially current diagnosis. What the diagnosis means in raising a child, what behaviors are connected with the diagnosis, and how are connected behaviors best dealt with. The prospective adoptive parents should be encouraged to talk directly with the child's mental health therapist when possible.
  - v. Family Story: Family History form with family history, family situation, moves or stability factors, abuse and neglect history, domestic violence, reason for the child's removal from their biological family, culture, genogram including the siblings (with their birth dates), time lines. Family member's talents, hobbies, and interests. Family photos, especially photos with the child as a baby and early

- in life. Letters to the child from relatives, especially the mother and/or father.
- vi. Child's Personal Information: Developmental history, when available. Placement history including the child's adaptation. Birth certificate. Photos of the child, of pets, of foster parents, or of other significant caretakers. The child's artwork, creations, or projects. Stories about the child's birth and early life. Church records, such as baptismal, christening, Bar mitzvah, and confirmation records. Activities such as scouts, sports, choir, etc. Favorite foods, favorite toys or stories, names of friends, and other things that may help the child feel more secure, such as chores and house rules or bedtime routines.
5. After the prospective adoptive parents have looked through the file, talk with them about what they found. Give them health and mental health diagnoses summary sheets, and answer questions they may have.
6. Helpful websites include:
- American Academy of Child & Adolescent Psychiatry: [www.aacap.org](http://www.aacap.org).
  - American Psychological Association: [www.apa.org](http://www.apa.org).
  - American Academy of Pediatrics: [www.aap.org](http://www.aap.org).
7. Give the prospective family time to think about all they have learned. Encourage them to set another appointment to talk and ask other questions.
8. Establish a transition plan. When the prospective adoptive parents have decided that they want to move forward with the adoption of the child, develop a transition plan by holding a child and family team meeting inviting the following to participate (when appropriate and applicable): the child, the current caregivers, prospective adoptive parents, other children in the home, caseworker, therapist, teacher, clergy, as well as any other significant people in the child's life.
9. For children moving into a new family, establish times for structured visits to allow the child and new family to get to know each other. Start with short visits, then longer visits, but no overnight visits. Move gradually into overnight visits. Finally, decide when the child will move in with the new family and change school if necessary.

10. For foster families who have had the child in their home, set a time to talk about the differences between adoption and foster care. Talk about the differences in funding, the family's ability to make decisions without Child and Family Services, and differences in community supports available. Let the family know that they may see more negative behavior as the child adjusts to the new circumstances. Give the family the name and contact information for their post-adoption worker.
  11. Talk to the family about ceremonies and things the family may want to do to establish the permanency the adoption brings the child and family. Ceremonies may include extended family members and friends, and may include a church ritual. Another thing that may help mark the change for the child and the family is to get a family photo taken. Help the family understand that while the child is gaining a new family, adoption also signifies that they have lost their other family in a more profound way. Thus, the family may see an escalation in the child's grief and negative behaviors.
  12. Help the family know the importance of keeping the child's information and history.
  13. Encourage the adoptive family to review the child's file several times and especially after the child has been with the family for a couple of months.
  14. Set a date for the family to review the file again before the finalization of the adoption.
- H. A family that is not selected for an adoptive placement of a specific child shall have no right to appeal the decision, unless the family not selected for the adoptive placement is the child's current foster family and the foster family has completed all requirements for approval as an adoptive family. If the foster family is not selected for the adoptive placement, the foster parent due process rights for removal of a child applies. [See: Foster Parents Due Process, Utah Administrative Code, Human Services Rule [R512-31](#).]
- I. When an approved adoptive family agrees to accept the placement of a child for adoption, the adoptive parents and a representative from Child and Family Services shall sign an adoption agreement on a form provided by Child and Family Services.

- J. When a family agrees to accept the placement of a child who is not free for adoption, the parents shall sign the Foster Child Adoption Agreement form.
- K. No identifying information regarding the adoptive parents shall be released to birth families without the written consent of the adoptive parents.

## 401.5 Adoption Training

### Major objectives:

Adoptive and Adoptive/Foster Care Family Training - To successfully care for a child, the caseworker will verify that the adoptive families and adoptive/foster care families have completed a training course approved by Child and Family Services prior to the child's placement in the home.

### **Applicable Law**

Utah Code Ann. [§62A-4a-105](#). Division responsibilities.

### Procedures

- A. Training for Adoptive and Adoptive/Foster Care families may consist of classroom courses and/or in-home study materials as approved by Child and Family Services and regional training staff. Training may be provided by the Child and Family Services, or Child and Family Services may accept training provided by another agency if it meets the standards of Child and Family Services. The caseworker will verify that all required training has been completed. The training must address at least the following:
  - 1. Orientation to Child and Family Services programs;
  - 2. Team building;
  - 3. Family systems;
  - 4. Child development;
  - 5. Abuse and neglect;
  - 6. Sexual abuse;
  - 7. Attachment/separation issues;
  - 8. Discipline;
  - 9. Cultural issues;
  - 10. Primary families;
  - 11. Effects of care giving on the family;
  - 12. Permanency issues for children and families.
- B. Specialized Training - The adoption caseworker may require the adoptive family to receive more specialized training before placement to ensure the parents have the necessary skills to meet the needs of the child that they are willing to adopt. Specialized training may address such topics as medically fragile infants, adolescents, behavioral challenges, and others.
- C. The caseworker will ensure that the family:



1. Has completed Child and Family Services approved adoption training;
  2. Has been assessed and qualified to adopt by a licensed child placement agency or Child and Family Services;
  3. Has received a foster care license issued by the Office of Licensing, or if the family is interested only in a child who is legally free for adoption at the time of placement, then a license is not required, but there must be documentation that the standards of a foster care license are met.
  4. And if the adoptive family is a Child and Family Services employee, the appropriate procedure has been followed to ensure that no conflict of interest exists in completion of the assessment, placement, and supervision. [See: Utah Administrative Code [R512-40.5.](#)]
- D. Screening - The caseworker shall explain the Criminal Background Check, and Child Abuse Database Screening and explain that an FBI check (including fingerprinting) is needed if the applicant has not lived in Utah for the past five years. The caseworker will explain the authorization form for the Criminal Background Check, and Child Abuse Database Screening. If the applicant(s) does not pass the Criminal Background Check or the Child Abuse Database Screening, the caseworker will inform the applicant(s) that they are not eligible to proceed with the assessment.
1. Criminal Background Check - Complete a criminal background check for all adults present in the home.
  2. Child Abuse Database Screening - Complete a child abuse database screening for all adults present in the home.
- E. Assessment - Each region may develop their own assessment form and process. The caseworker or other child placement agency will use the following criteria to assess the potential of prospective adoptive families to determine if the adoption placement is in the best interest of the child. The caseworker should consider the child's kin or extended family as a possible placement at this stage of the process.
1. Child's Needs and Family's Strengths - The selection of an adoptive family shall be based upon the child's needs and the family's strengths.
  2. Race, Ethnicity, and Culture - An adoptive placement shall not be delayed or denied on the basis of race, color, or national origin of the adoptive or foster family or child, as required by federal law.
  3. Religious Preference - A child's religious preference may be taken into consideration in the selection of an adoptive family.
  4. Safety of Children in Home - No child should be placed in a specific adoptive or adoptive/foster care home if the placement would put other children residing in the home at risk.



5. **Preferential Placement Requirements Foster Family or Other Caregiver with Physical Custody** - A foster family (or other caregiver with physical custody) of the child may have preferential consideration for adoption if the child has substantial emotional ties with the foster family/caregiver and if removal of the child from the foster family/caregiver would be detrimental to the child's well-being.
6. **Guardian ad Litem (GAL) Recommendation** - The caseworker should solicit and consider the input of the child's GAL in selecting the adoptive placement.
7. **Age of Adoptive Parents** - The selection of the adoptive parents shall not be based upon the age of the adoptive parents, except that the adoptive parents must be at least 10 years older than the child placed for adoption. [See: Utah Code Ann. [§78-30-2](#).] The Office of Licensing, Rules for Child Placing Agencies, Rule R501-7-5.3.b.(2) states, "Age: Chronological age alone should not be the determining factor for the selection of adoptive parents. Utah statutes require that the adoptive parents be at least ten years older than the child placed for adoption. Physical condition and life expectancy of the applicants should be taken into consideration to protect the child against a repeated, foreseeable loss of parents through death or incapacitating illness. Also, it is important for applicants to be physically and emotionally capable of meeting the needs of the children as they grow and develop."

## **401.6 Foster Family Preferential Consideration**

### Major objectives:

Foster Family Preferential Consideration - Foster parents may be given preferential consideration when applying to adopt a child in their care. However, the adoption committee may choose not to make the adoptive placement with the foster family who has become licensed for adoption, if good cause can be demonstrated. The major objectives for removing a child from a foster family shall be followed. [See: Utah Administrative Code, Human Service Rule [R512-31](#).] Reasons for not placing the child with the foster family for adoption shall be documented in the case record and provided to the family in writing.

### **Applicable Law**

Utah Code Ann. [§78-30-1.6](#). Children in the custody of the Division of Child and Family Services -- Consideration of child's relationship with foster parents who petition for adoption.

### Procedures

The foster family or caregiver's application to adopt shall be processed and, if satisfactory, the adoptive assessment completed before any other applications to adopt the child are processed. For preferential consideration, the foster family or caregiver shall submit the application for an adoptive assessment to Child and Family Services within 60 days of the change of the goal to adoption or of the court's discontinuation of reunification. If parental rights have been terminated, the application shall be submitted within 30 days.

- A. If the application has not been submitted within 30 days of termination of parental rights, the caseworker shall consider approved adoptive families throughout the state, shall contact other licensed child placing agencies, and shall list the child on appropriate adoption exchanges.
- B. Factors that shall be taken into consideration regarding selection of the home for adoptive placement shall be consistent with those a court would use to determine if the foster family would be selected. [See: Utah Code Ann. [§78-3a-410](#).]
- C. Foster Parents Procedures for Preferential Adoptive Placement - When evaluating the foster parents as adoptive parents, consider the following:

1. The extent to which the child has become integrated into the foster family and has familial identity with that family;
2. The ability and willingness of the foster family to treat the child as a family member;
3. The love, affection, and other emotional ties existing between the child and the foster family, and the child's ties with the foster family;
4. The capacity and disposition of the foster family to give the child love, affection, and guidance, to meet the emotional needs of the child, and to provide for the education of the child;
5. The length of time the child has lived with a stable, satisfactory foster family and the desirability of the child's continuing to live in that environment;
6. The likely permanence of the foster family as a family unit.

## 401.7 Adoption Committee

### Major objectives:

The adoption committee shall select an adoption placement that is in the best interest of the child.

### **Applicable Law**

Utah Code Ann. [§78-30-1.5](#). Legislative intent -- Best interest of child.

### Procedures

- A. The region director shall annually establish terms of service for members of the adoption committee and frequency of adoption committee meetings.
- B. The committee may meet in any location appropriate for the case.
- C. The proceedings of the committee are confidential and each participant at the adoption committee meeting shall sign a confidentiality statement.
- D. If no Child and Family Services caseworker with adoption experience is available in the local area to participate on the adoption committee, an individual with adoption expertise from outside of the area may be included on the committee, such as the state program specialist, a clinical consultant, or an adoption caseworker from another region. The adoption committee should have at least three members.
- E. Decisions of the committee shall be made by consensus of the committee. If the committee is unable to reach a consensus, the decision shall be referred to the region director.
- F. Minutes shall be taken at each adoption committee meeting. A copy of the minutes shall be maintained at the local office or at a centralized location within the region. Copies of relevant portions of the minutes may be added to a child's case record. Confidentiality forms shall be maintained with the minutes.
- G. Referring Caseworker - The referring caseworker is responsible for presenting the information necessary for the adoption committee to assess the adoptive placement alternatives for the child. Include a list of information about child to be considered. The referring caseworker shall not serve on the adoption committee.

- H. Identifying Possible Adoptive Families - Based upon the child's characteristics, history, and needs, the caseworker shall identify a minimum of three (or list "multiple") possible adoptive families for consideration by the adoption committee, unless preferential placement criterion applies or the exceptional circumstances of the child make identification of three families impractical. If three families cannot be identified because of the exceptional circumstances of the child, the adoption committee may approve fewer options for placement consideration.
- I. Approval for Placement for Adoption or for a Placement of a Child Who is Not Free for Adoption - The caseworker will present an assessment with a recommendation concerning the adoptive family to the adoption committee. The adoption committee must approve the adoptive placement of a child who is not free for adoption. The adoption committee may choose not to place a child with any of the proposed adoptive or adoptive/foster care families if it is determined that none of the families will adequately meet the needs of the child. Upon denial, a new search for adoptive/foster care or adoptive families shall be initiated.
- J. Justification for Selection of an Adoptive Family - The caseworker will present all relevant information concerning the child and the prospective adoptive families to the adoption committee. The adoption committee will document in the minutes of the meeting the justification for selection of the adoptive family.
- K. Justification for Selection of Family Procedures - The adoption committee will select an adoptive family and document the proceedings according to the following:
  - 1. Explain and document the rationale for selection of the proposed family;
  - 2. Explain and document the rationale when none of the proposed adoptive or adoptive/foster care families (including Child and Family Services staff) are selected;
  - 3. Explain and document the reasons for not placing siblings together;
  - 4. Explain and document the reasons that the selection meets the long-term best interest of the child.

## **401.8 Matching The Child And The Adoptive Family By The Adoption Committee**

### Major objectives:

Child and Family Services will use every effort to make a smooth and effective transition to the adoptive home with the foster family, the child, and others who have a supportive relationship with the child. All out-of-home requirements continue to be applicable until the adoption is finalized.

### **Applicable Law**

Utah Code Ann. [§78-30-9](#). Decree of adoption -- Best interest of child -- Legislative findings.

Utah Code Ann. [§78-30-18](#). Mutual-consent, voluntary adoption registry -- Procedures -- Fees.

### Procedures

- A. Access to Relevant Records - Adoptive families will have access to all relevant information in the case record to help them understand and accept the child and preserve the child's history.
- B. Ongoing Support - Child and Family Services will inform the adoptive family of community services and adoption assistance available before and after the adoption is finalized. Child and Family Services will provide ongoing support to the child and adoptive parents during the transition until finalization of the adoption. At a minimum, the finalization will take six months. Child and Family Services' involvement will continue until the adoption is finalized. As part of the supervision, Child and Family Services will develop a service plan within 30 days of placement. The caseworker shall maintain contact with the adoptive family including frequent visits with the child for at least the first six months after placement. Post adoption services shall be made available, as needed, to the child and family.
- C. Parental Request or Concerns with Adoptive Placement - Child and Family Services shall consider removal of a child before an adoption is finalized if the adoptive parents request removal or if serious circumstances impair the child's security or development.
- D. Prior to removal, Child and Family Services shall respond to an adoptive family's concerns in a timely manner, counsel with the family, and, if possible and

- appropriate, offer further treatment, including intensive in-home services or temporary removal of the child from the home for respite purposes.
- E. Decision to Remove - If removal is sought, the child and family team shall review the placement progress and present situation and decide to either continue placement with further services or to remove the child from the home. The placement committee will be notified and will assist the child and family team to locate a placement. The region director will review and approve the decision.
- F. Documentation of Removal - Removal of a child from an adoptive family shall be documented in the child's record and in the adoptive family record.
- G. Notice of Agency Action - If a decision is made to remove the child, a Notice of Agency Action shall be sent to the adoptive parents notifying them of their due process rights. The adoptive family shall be offered the same rights as those offered a foster family regarding removal of a child. [See: Utah Administrative Code, Human Services, Rule [R512-31](#).]
- I. Adoption Finalization and Post Adoption - Before an adoption is finalized, the appropriate adoption committee shall review the placement, authorize finalization, and approve adoption assistance, when appropriate.
- J. Adult Adoptee or Adoptive Family Request for Records - The adoption records of Child and Family Services shall be made available to the adoptive parents or adult adoptee upon written request in accordance with GRAMA. [See: Utah Code Ann. [§63-2](#).]
- K. Priority Guidance for Selecting Adoptive Parents:
1. Indian children must be placed with prospective adoptive families according to the provisions of ICWA.
  2. The adoption caseworker will make a full report to the court in the home study that the applicant(s) comply with Utah Code Ann. [§78-30-9](#) and are legally married, or are registered with a court of competent jurisdiction in a common law marriage, or is a single person not cohabiting with another person.
  3. The decision to place a child with an adoptive parent or adoptive parents must comply with Utah Code Ann. [§62A-4a-602\(5\)\(c\)](#).
  4. Priority in adoption is given as follows:
    - a. To a man and a woman who are legally married. Prospective adoptive parents have a valid proof of a legal marriage or have a

- court document for registration of a common law marriage from a court of competent jurisdiction.
- b. To a single parent who is not cohabiting with another person in a sexual relationship. [House Bill 103 codified at Utah Code Ann. [§62A-4a-602\(3\)\(c\).](#)]
- 5. An individual who is not cohabiting may also be an adoptive parent if the region director determines it is in the best interest of the child. For example, the child requires unique medical, educational, or behavioral care that is not available in the pool of legally married couples.
  - 6. No presumption should be made that individuals who reside together are involved in a sexual relationship.
  - 7. The prospective adoptive parent(s) must complete the Declaration Affirming Compliance with Utah Code Ann. [§78-30-9](#). Couples must present a legal marriage license or court document verifying that their common law marriage has been registered in a court of competent jurisdiction.



## Declaration

Affirming Compliance with Utah Code Annotated §78-30-9  
for Prospective Foster or Adoptive Parent(s)

[Effective May 1, 2000]

The applicant(s) affirm that they are not cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state.

Definitions:

Cohabiting means residing with another person and being involved in a sexual relationship with that person.

Residing means living in the same household on an uninterrupted or intermittent basis.

Involved in a sexual relationship means sexual conduct between persons residing together.

The following applicant(s) as foster or adoptive parent(s) with the Child and Family Services of Child and Family Services

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Applicant

do solemnly swear (or affirm) that they are in compliance with Utah Code Annotated §78-30-9 (see reverse side of this form for the text)

\_\_\_\_\_  
Signed under oath before

(social worker name)

This day \_\_\_\_\_ of \_\_\_\_\_ (month) \_\_\_\_\_ (year)

This Declaration will be submitted to the court as evidence of the applicants' compliance with applicable law. This statement will become a part of the court file and the truth of the representations herein will be relied upon by the court. The submission of false statements under oath is perjury and punishable by law.

Utah Code Annotated §78-30-9, Effective May 1, 2000

(3)(a) The Legislature specifically finds that it is not in a child's best interest to be adopted by a person or persons who are cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state. Nothing in this section limits or prohibits the courts placement of a child with a single adult who is not cohabiting as defined in Subsection (3)(b).

(3)(b) For purposes of this section, cohabiting means residing with another person and being involved in a sexual relationship with that person

L. Preparation of the Child for an Adoption:

1. The caseworker will make every effort to ensure that an infant who will be free for adoption is placed with a family who is qualified for adoption.
2. The caseworker shall help the child work through the issues associated with adoption (for example, concerns about separation from foster parents, transition to a new family, etc.). A therapist may assist in this process if the caseworker determines that this assistance is needed.
3. When appropriate, the caseworker shall encourage continuation of a child's relationships with individuals with whom the child has previous, supportive emotional ties such as a foster family, a caseworker, a therapist, and/or extended family members. The caseworker shall counsel the adoptive parents concerning the issues the child may have as the transition is made to an adoptive placement.
4. The caseworker shall ensure that the child's life book is prepared to accompany the child to the adoptive placement. The child's life book, including personal information regarding the child's life and family of origin that has been gathered by the foster family or biological family, shall be forwarded to the adoptive family. This may include written records, photographs, birth information, and schoolwork.

M. Steps to Prepare for an Adoptive Placement:

1. The caseworker shall provide ongoing support to the adoptive parents during the transition, placement, and supervisory period.
2. The caseworker will ensure that the child's case record and all other relevant information are available for the adoptive family to review. Information generated by Child and Family Services may be photocopied by the GRAMA specialist. Information from a third party provider may be read by the adoptive parents, but shall not be photocopied. Adoptive parents shall verify in writing that they received this information.
3. The caseworker shall inform the adoptive family about specific services that are available during the supervisory period and after finalization. These services may include adoption assistance, post adoption services, and/or training that may be available to help the parents respond to special needs of the child. Adoptive parents shall verify in writing that post adoption services were offered.
4. The caseworker shall notify the family that if they are requesting adoption assistance, an adoption assistance agreement must be signed prior to the finalization of the adoption.
5. The worker shall inform the family that they have the right to apply for adoption assistance. The regional adoption subsidy committee will

- determine if the child qualifies. If the child is denied adoption assistance, the family will be sent a notification of a right to a fair hearing at which they can appeal that decision.
6. If the level of adoption assistance is offered at less than the requested amount, the regional adoption subsidy committee shall send the family a notification of a right to a fair hearing.
- N. Court Fees - The adoptive parents are responsible to petition the court and pay for fees associated with finalization.
- O. Payment to Adoptive and Foster/ Adoptive Care Parents Prior to Finalization:
1. The caseworker shall explain the appropriate types of adoption assistance to the adoptive parents and assist them with the process.
  2. The caseworker shall explain to the adoptive parents that funds for the child who is not legally free for adoption are foster care funds.
  3. The caseworker shall explain that assistance for the child who is legally free for adoption may be foster care funds or upfront adoption assistance funds if the child is eligible for adoption assistance and Child and Family Services funding is available. The amount and type of payments for a child in Child and Family Services custody placed with an adoptive family may be the same as for any other child in custody until finalization.
  4. The caseworker will negotiate the level of adoption assistance. The adoption committee will approve or disapprove the negotiated level of adoption assistance. If the proposed level of adoption assistance is disapproved, the caseworker will renegotiate the level of adoption assistance with the adoptive family prior to finalization.
  5. The caseworker shall inform the family that they have the right to apply for adoption assistance. The regional adoption subsidy committee will determine if the child qualifies. If the child is denied adoption assistance, the family will be sent a notification of a right to a fair hearing at which they can appeal that decision.
- P. Community Services - The caseworker shall inform adoptive parents of appropriate community services, as needed, after placement but before the adoption is final. The caseworker shall facilitate linking the family with community services to help the child become successfully integrated into the adoptive family.

- Q. Information Regarding Court Proceedings - The caseworker shall help adoptive parents understand the juvenile, district or tribal court proceedings for finalizing the adoption.
- R. Adoptive Placement from Another Region or Child and Family Services Office - If it is necessary to remove a child who was placed with an adoptive family at the request of another region, staff from the sending region shall establish a plan for future placement based upon the needs of the child. The plan shall be submitted for approval to the adoption committee and the region director in the region where the child was placed.
- S. Parent Support Groups - The caseworker may arrange for and facilitate parent support groups for families who have adopted a child with special needs and who request ongoing supportive services. The adoptive parents may be encouraged to take an active role in developing and maintaining the support group.

## 401.9 Post-Adoption Services

### Philosophy

Adoption is an ongoing process that brings joys and challenges and unknown factors. The emotional highs and lows all families experience may be intensified by the many facets of adoption.

Child and Family Services has post-adoption services for families who have adopted children/youth from foster care or who have been involved with Child and Family Services.

### Major objectives

- A. Support families who have adopted children or youth from Child and Family Services.
- B. Prevent the disruption of children from adoptive placements.
- C. Post-adoption services include:
  - 1. Helping adoptive families who have questions or concerns.
  - 2. Helping adoptive families find community resources specific to their needs.
  - 3. Accessing the adopted child/youth's case file and information.
  - 4. Assisting adoptive families and their children/youth with appropriate connections with birth family members.
  - 5. Providing clinical expertise to help adoptive families with the challenges of parenting children/youth who have special needs.

### **Applicable Law**

Utah Code Ann. [§62A-4a-101](#). Definitions.

Utah Code Ann. [§62A-4a-607](#). Promotion of adoption -- Agency notice to potential adoptive parents.

Utah Code Ann. [§75-5-103](#). Delegation of powers by parent or guardian.

### Practice Guidelines

- A. Place to Call for Help. Post-adoption workers will help adoptive families who have questions or concerns. Having an adoption professional available for an adoptive family to talk with about concerns often relieves the stress that can be created from not knowing where to turn for help.

- B. Community Resources for Adoptive Families. Post-adoption workers will have a working knowledge of community resources that may help adoptive families with their specific situations. Post-adoption workers may:
1. Connect families to helpful informational resources, support groups, schools, respite care options, mental health professionals, and an adoption lending library with many resources. Refer families to the website [www.utdcfsadopt.org](http://www.utdcfsadopt.org) for updated adoption resources as well as printed materials such as the Utah Post Adoption Resource Connection booklet and the Child and Family Services Adoption Connection newsletter.
  2. Cultivate resources or find creative alternatives to address the specific needs of adoptive families.

- C. Access to Case Files and Information. Post-adoption workers are in the unique position of having access to information from the adopted child/youth's out-of-home care file. This information can help the adopted child/youth and family understand the child/youth's history and identify connections between past, present, and future. Out-of-home care file information may also reveal timeframes for life events, gaps in information, and past services that may be helpful in raising an adopted child/youth.

The post-adoption worker may help the adoptive parent gather information from the out-of-home care file to understand and share with the child/youth as they grow. Information from the out-of-home care file can be helpful to the child/youth in understanding themselves and their history.

1. The confidentiality agreement, SAFE form DCFS02, must be signed by the adoptive parent prior to viewing the file.
  2. Child and Family Services should orient the adoptive parent to the structure of the file and where information is located.
- D. Contact with Birth Family. Post-adoption workers can provide the invaluable service of bridging the gap between the adoptive family and the birth family. This allows a forum for the adopted child/youth to stay connected with important people from his or her life, yet gives the adoptive and birth families some expert guidance to help with an emotionally charged situation.
- E. Clinical Expertise. Post-adoption workers in most regions have clinical expertise themselves or access to clinical expertise to help adoptive families with the challenges of parenting children/youth who have special needs.

Post-adoption workers will provide or facilitate crisis and time-limited counseling to stabilize a difficult situation. When an adoptive family is in crisis:

1. The initial intervention will be family preservation services with intense clinical intervention to stabilize the family.
2. Family preservation services will be used as a way to assess the family's needs and incorporate appropriate services.
3. Child and Family Team Meetings will be held to work concurrently with community mental health, respite care, cluster groups, and other resources to provide ongoing support to continue the family's stability.

F. Documentation of Post-Adoption Services.

1. Short meetings or conversations with an adoptive family will be logged in the Adoption Assistance (AAM) file.
2. A Post-Adoption (PAT) case will be opened for anything that involves more than referrals or short meetings.
  - a. If services continue for 30 days, even on a limited basis, a PAT case should be opened.
  - b. Cases should be linked from the AAM, or
    - (1) from the Out-of-Home Care (SCF) case if the child/youth is in custody, or
    - (2) from the Child Protection Services (CPS) case if the family or the child/youth has a CPS referral.
3. Post-Adoption (PAT) interventions should have a written Child and Family Assessment and Child and Family Plan.
4. If the PAT casework includes services that may require funding considerations, funding requests will be coordinated with the Adoption Assistance Committee.
  - a. If the AAM case is in a different region than where the family resides, the family would be asked if the AAM case could be transferred to the region where the family resides.
  - b. When considering transferring an AAM case, the monthly adoption subsidy will be reviewed to assess a need for an increase before the case transfer is made.
  - c. Post-adoption and adoption assistance workers from each region will coordinate to make a request to transfer the AAM case.
  - d. The combined recommendation from each region's post-adoption and adoption assistance worker will then be submitted to the region director for the AAM case and funding transfer.
5. Reviews of PAT cases.

- a. If there is only a minimal or no monthly adoption subsidy increases to address services needs, PAT cases should be reviewed every six months.
  - b. If there is a significant increase in the monthly adoption subsidy and/or use of Federal Adoption Promoting Safe and Stable Family (FPA) and/or supplemental funding requests to address the service needs, PAT cases should be reviewed at least every three months.
- G. Medicaid Carve-Out. When an adoptive family or Child and Family Services thinks that the family is not able to meet their mental health needs through the Public Mental Health Provider (PMHP), the post-adoption worker will assist the parent in evaluating their need to ask for an exemption from the PMHP. The post-adoption worker will then help the parent select a contracted mental health provider that is willing to bill Medicaid and that is best suited to help the family and adopted child/youth achieve the desired outcomes.
  - 1. If the requested therapist is the mental health therapist who was treating the child/youth while the child/youth was in out-of-home care, the post-adoption worker will discuss with the family what PMHP can offer that may not be available with the contract provider, such as a psychiatrist and psycho-educational groups.
    - a. The post-adoption worker will determine if the requested therapist contracts with the PMHP. If so, the post-adoption worker will inform the parent they may remain in the PMHP and continue to receive services from the current therapist.
    - b. If the parent wants to carve-out of (or be exempt from) the PMHP, the post-adoption worker will contact the identified mental health therapist and verify their willingness to treat the family and obtain the date the treatment will begin.
    - c. The post-adoption worker will use the Department of Health, Child and Family (DHCF) template to submit the PMHP exemption information and request to Medicaid. The request for the Medicaid carve-out should be sent via fax or email directly to the Department of Health, Medicaid adoption carve-out contact person.
  - 2. If a mental health therapist has not yet been identified, a clinical post-adoption worker will work with the adoptive family to clinically assess the adopted child/youth's treatment needs, including level and type of treatment (e.g., outpatient family or group therapy, residential treatment, etc.).
    - a. During the clinical assessment, the post-adoption worker will determine the clinical appropriateness of the Medicaid carve-out.



- b. The post-adoption worker will obtain the child/youth's treatment history from the parent, including any inpatient or residential treatment and involvement with the PMHP, including:
  - (1) the names of providers;
  - (2) the reasons for the treatment;
  - (3) the length of the treatment episode;
  - (4) when services were provided; and
  - (5) the parent's perceived outcome of the treatment.
- c. The post-adoption worker will determine if the child/youth has been staffed by a multi-agency team. If the child/youth has been staffed, the post-adoption worker will obtain:
  - (1) the name of the team and participating agencies;
  - (2) when the staffing occurred; and
  - (3) what was the recommendations of the staffing.
- d. The post-adoption worker will discuss with the PMHP and parent, preferably together, whether the PMHP and parent can develop an agreed-upon treatment plan.
  - (1) If they can, the Medicaid carve-out process ends.
  - (2) If they cannot, the Medicaid carve-out process continues.
- e. The post-adoption worker or professional team will provide information to the parent about the level and kind of treatment that has been recommended for the child/youth.
- f. The post-adoption worker will assist the parent with the selection of a mental health therapist by providing information about the therapist's areas of expertise and by offering several names of qualified contracted mental health providers who provide the level of services recommended and who practice in the family's area.
- g. The post-adoption worker will submit the Medicaid exemption information and request to Medicaid via fax or email and will send the request directly to the Department of Health, Medicaid adoption carve-out contact person. Using the DHCF template, the post-adoption worker will provide the:
  - (1) name of the child/youth;
  - (2) Medicaid ID number;
  - (3) parent's name;
  - (4) name of post-adoption worker;
  - (5) phone number and fax number of post-adoption worker;
  - (6) name of PMHP;
  - (7) reasons for requested PMHP exemption (this is important so Medicaid can track trends and PMHP accessibility);

- (8) date of the carve-out request;
- (9) summary of the:
  - (a) services requested (outpatient or residential);
  - (b) name of the provider;
  - (c) date the provider was contacted to verify that the provider is willing to treat the family;
  - (d) name of the staff person contacted if different than the therapist (e.g., Mary Jones, receptionist at ABC counseling center);
  - (e) date the provider will begin services; and
- (10) clinical recommendation.
- h. Medicaid will then implement the carve-out from the PMHP for mental health services and return the completed request to the post-adoption worker, documenting the:
  - (1) date the exemption request was received, and
  - (2) date the exemption will be effective.
- i. The post-adoption worker will inform the parent that the Medicaid carve-out has been processed and that a new Medicaid card will be issued.
- j. Medicaid will send information to the PMHP that the child/youth has been exempt.

- H. Out-of-Home Placement. When a family cannot address an adopted child/youth's needs within their family setting, out-of-home placement may need to be assessed.
- 1. Youth Service Centers (in regions where they exist) or Family Support Centers should be used to allow for a cooling down period for the family and to allow the post-adoption worker to assess the child/youth and family's needs.
  - 2. A Child and Family Team Meeting will be convened with the family, at least two Child and Family Services staff, Youth Service Center staff, and any others who are involved or who may be helpful.
  - 3. The Child and Family Team will explore what services or supports may help address the problems while allowing the child/youth to stay with the family.
  - 4. Extended respite care (two to 15 days) may be sought as a time to continue to assess family needs.
  - 5. If regular extended respite care could address the family's needs, then appropriate resources will be explored.

6. If out-of-home placement is indicated, explore a voluntary agreement the family might make with a relative, friend, or proctor family (family-to-family) without Child and Family Services involvement. This allows the family to negotiate costs, visits, and other plans.
7. Voluntary family-to-family agreements should always address how the family will stay involved. The long-term view should be evaluated with questions such as; "Where will the child/youth spend holidays and vacations? Who will help when the car breaks down or the child/youth breaks a leg? Who will help with post-high school education? When the youth becomes an adult, who will help with the wedding or when a baby is born?" In a voluntary agreement between an adoptive family and another family:
  - a. The adoptive family will arrange to give the family who is assuming physical custody a temporary Delegation of Custody and/or a properly executed Power of Attorney (Utah Code Ann. [§75-5-103](#)). The family may require legal advice.
  - b. The child/youth's Medicaid card will be sent to the family with physical custody of the child/youth.
  - c. The monthly adoption subsidy will continue to go to the adoptive family who will forward it to the family with physical custody of the child/youth.
  - d. The family with physical custody has no legal standing.
  - e. The adoptive family continues to be financially and legally responsible for the child/youth.
  - f. Either family can revoke the voluntary agreement at any time.
  - g. The family with physical custody has the power to make decisions regarding routine medical and basic educational needs of the child/youth.
  - h. Either family may stay in contact with Child and Family Services as needed.
8. Legal custody and guardianship is a legal process in which an adoptive family may give another family the legal rights to raise the child/youth. The following are required for such an arrangement:
  - a. Court involvement.
  - b. The child/youth's Medicaid card will be sent to the legal guardianship family.
  - c. The Office of Recovery Services will assess the adoptive family child support payments.
  - d. The monthly adoption subsidy continues to go to the adoptive family, who continues to be financially responsible.

- e. The family who is granted legal guardianship may apply for guardianship subsidy (guardianship subsidies are less than adoption subsidies).
  - f. Either family may stay in contact with Child and Family Services as needed.
- 9. If an out-of-home placement is indicated yet a voluntary family-to-family placement is not appropriate because of the mental health treatment needs of the child/youth, then a Medicaid carve-out for residential treatment may be assessed. Clear treatment objectives, family involvement, and the child/youth's return home plan will be part of the Medicaid carve-out plan.
  - a. A PAT case will be opened in SAFE.
  - b. Child and Family Team Meetings will be held as often as needed to keep the family involved in decisions.
  - c. The case will be reviewed a minimum of every three months.
- I. Medicaid Carve-Out for Residential Treatment.
  - 1. The post-adoption worker and the parent together will determine if residential treatment is indicated, as well as the level and kind of residential treatment that would best meet the child/youth's mental health needs.
  - 2. The post-adoption worker may want to contact a Child and Family Services contract specialist to:
    - a. Obtain information on the most appropriate residential treatment provider, taking into account the location of the provider, provider expertise, availability of a bed, etc.
    - b. Obtain the correct Child and Family Services code (that would have been used for a child/youth in out-of-home care) for the residential treatment provider ultimately selected (e.g., DRM, DIR, etc.). This is absolutely necessary so Medicaid can ensure that the provider bills only the rate agreed to in the provider's contract with Child and Family Services.
  - 3. The parent is responsible for the room, board, and educational costs of the residential treatment program. The post-adoption worker will discuss with the parent how this will be paid. The parent may use the adoption monthly subsidy to help cover costs.
  - 4. The post-adoption worker then:
    - a. Contacts the selected residential treatment provider to ensure the provider is willing to serve the child/youth and determine the date the provider will begin providing services.

- b. Estimates the length of treatment and develops an after-care plan, including services the family will receive after discharge from the residential treatment and whether the child/youth will be re-enrolled in the PMHP.
- c. Using the DHFC template, submits the exemption information and request to Medicaid via fax or email and sends the request directly to the Department of Health, Medicaid adoption carve-out contact person.
- d. Using the DHCF template, provides the:
  - (1) name of the child;
  - (2) Medicaid ID number;
  - (3) parent's name;
  - (4) name of the post-adoption worker;
  - (5) phone number and fax number of the post-adoption worker;
  - (6) name of the PMHP;
  - (7) reasons for requested the PMHP exemption (this is important so Medicaid can track trends and PMHP accessibility);
  - (8) date of the carve-out request;
  - (9) summary of the:
    - (a) service requested (outpatient or residential);
    - (b) name of the provider;
    - (c) date the provider was contacted to verify if the provider is willing to treat the youth;
    - (d) name of the staff person contacted if different than the therapist (e.g., Mary Jones, receptionist at ABC counseling center);
    - (e) date the provider will begin services;
    - (f) level of care (e.g., DIR, DRM, etc.);
    - (g) proposed discharge date; and
  - (10) Clinical recommendation.
- 5. Medicaid will implement the exemption from the PMHP for mental health services and will return the completed request to the post-adoption worker, documenting the:
  - a. date the exemption request was received; and
  - b. date the exemption will be effective.
- 6. The post-adoption worker will inform the parent that the Medicaid carve-out has been processed and that a new Medicaid card will be issued.
- 7. Medicaid will send information to the PMHP that the child/youth has been exempt.

- J. Determining the Appropriate Funding Source. When both state Supplemental Adoption Assistance (SAC) and federal FPA funding would be appropriate to use for a funding request, the following guidelines should be considered.
1. Federal funds should be considered before state funds to assure all federal funds (which include a state match) are used in each fiscal year.
    - a. The level of Title IV-E monthly subsidy should be assessed to determine if it is appropriate to increase the monthly subsidy with a time-limited amendment to address the special needs of a child/youth who requires residential mental health treatment.
    - b. Federal FPA funds (which include a state match) should be considered for use before state SAC funds.
    - c. Federal FPA funds are best used for time-limited expenditures of less than \$2,000 per family. When using federal FPA funding, take into account other needs the region may have for the use of such funds.
  2. State SAC funds are best used for extensive, expensive, or long-term expenses after it is determined that increasing Title IV-E monthly adoption subsidy and federal FPA funding are not appropriate or available.
- K. Juvenile Justice Services or Department of Human Services Custody. Post-adoption workers may need to help an adoptive family when an adopted child/youth is involved with the Division Juvenile Justice Services and the court orders the child/youth into the custody of Child and Family Services or an adopted child/youth is taken into the custody of the Department of Human Services to receive services for people with disabilities.
- L. Requests for Child and Family Services to Take Custody. When a family requests Child and Family Services take custody of their child/youth, the post-adoption worker should offer the family a break and help the family assess their options.
1. The post-adoption worker should offer the family a break by having them take the child/youth to Youth Service Centers (in regions where they exist) or Family Support Centers to allow a cooling down period for the family and to allow the post-adoption worker to assess the child/youth and family's needs.
  2. A PAT case will be opened.
  3. Child and Family Team Meetings will be held to assess the family's strengths and challenges, what resources have been utilized, and what

- resources may be available. The Child and Family Team will explore what services or supports may help address the problems while allowing the child/youth to stay with the family.
4. A Child and Family Assessment will be developed.
  5. An out-of-home placement may be arranged if the assessment deems it is appropriate for the child/youth and family.
  6. A Child and Family Plan for reunification services will be developed.
  7. Child and Family Services custody may be considered after the child/youth has been in an out-of-home placement and the following circumstances are present:
    - a. Parent appears to be totally disengaged from the child/youth and shows no willingness to look at options of how the child/youth will return home.
    - b. Parent is not paying the fees for room and board.
    - c. Best interest of the child/youth would dictate looking at Child and Family Services taking custody, such as when the parent is so negative with the child/youth that there is possible damage or when the child/youth's behavior is so unacceptable to the parent that even with treatment they will not stay engaged.
    - d. Time often tells what is in the best interest of the child/youth. The child/youth often wants to go home but in situations when the family is totally disengaged it may help to move forward with another adoptive placement (when possible).
  8. When considering Child and Family Services taking custody of a child/youth, disclose to the parent about court involvement, permanency time frames, and that the Office of Recover Services will assess child support payments.
- M. Adoptive Parents Who Want to Relinquish Parental Rights. A family may want to voluntarily relinquish their parental rights to an adopted child/youth.
1. The post-adoption worker will work with the family to show that reasonable efforts were made to keep the child/youth out of state custody.
    - a. Intensive family preservation services should be offered.
    - b. Placement of the child/youth with extended family, friend, neighbor, birth relatives, etc. should be explored.
    - c. For youth who are 16 years old and older, Job Corps might be explored as a possible option.
  2. If the child/youth must be removed from the adoptive home immediately, have the parent sign a Voluntary Custody form giving



- custody and guardianship to Child and Family Services and place the child/youth in shelter care.
- a. Child and Family Services will maintain custody for 12 months following a Child and Family Plan, before relinquishment of parental rights are considered to allow court reviews and permanency hearings to take place.
  - b. Another adoptive family should be in place before relinquishment of parental rights will be considered.
3. The adoptive family will need to hire their own attorney. Their attorney will file a petition with Juvenile Court to terminate the parent's parental rights. Because the state has no jurisdiction, the family will be the party petitioning the court to dissolve the adoption. Once this is done, an Assistant Attorney General (AAG) will be involved and a judge and Guardian at Litem (GAL) will be assigned to the case.
  4. The GAL is often against the relinquishment of parental rights if it makes the child/youth an orphan or terminates the parents' financial support of the child or youth.
  5. The current therapist, post-adoption worker, and anyone who can address what is in the best interest of the child/youth will need to write a report and may need to testify in court.
  6. The post-adoption worker should write a court report, which clearly states what is in the best interest of the child/youth, such as:
    - a. There are irreconcilable differences in the home (i.e., the child/youth does not feel safe in the adoptive home, the child/youth is a threat to other children in the home, or the home environment has become toxic for the child/youth).
    - b. There are other significant people in the child/youth's life who will fulfill a parental role, or who will adopt the child/youth, or who will take custody and guardianship of the child/youth.
    - c. The appropriateness of a goodbye visit or future contact with the adoptive parent.
    - d. Future contact with birth siblings, if there are birth siblings in the adoptive home.
    - e. A recommendation that the relinquishment of parental rights not be granted until another adoptive home is found.
  7. The post-adoption worker should inform the parent that the case could go to a full termination trial and the parent may not be allowed to voluntarily relinquish their parental rights.
  8. The post-adoption worker should inform the parent that the court will order them to contact the Office of Recovery Services and pay a portion of



- the out-of-home care costs until their parental rights are terminated or if parental rights are not terminated, until the youth turns 18 years old. The adoption assistance worker should be informed of how long the parent will be paying child support.
9. If an adopted child/youth was receiving a federal Title IV-E adoption assistance and there is another family who wants to adopt the child/youth, the child/youth will continue to be eligible for the Title IV-E adoption assistance without the child/youth coming into state custody. In such circumstances:
    - a. The child/youth must be in the new adoptive home for at least six months.
    - b. If the first adoptive family continues to receive the monthly adoption subsidy, and they must forward it to the second adoptive family during the six-month period as the payee cannot be changed.
    - c. The first family can relinquish their parental rights and consent to the adoption, and the second family can adopt the same day.
  10. An adopted child/youth who was receiving a Title IV-E adoption subsidy is automatically eligible for Title IV-E adoption assistance in the next adoption. It must be screened with the Adoption Assistance Committee prior to the finalization.
  11. If an adopted child/youth was receiving a state monthly adoption subsidy, the second adoptive family will not receive a monthly adoption subsidy unless:
    - a. the child/youth is in public foster care; or
    - b. the child/youth is eligible for Social Security Income for disability.
  12. Termination of the parent-child legal relationship does not terminate the child/youth's right to inherit from the parent.
  13. When a child/youth adopted in Utah resides in another state, a petition has to be filed in the state where the adoptive family resides. Utah has no jurisdiction.

## **401.9a                      Adoption Assistance**

### Philosophy:

Adoption assistance was originated by the federal government to address the financial barrier to adopting a child/youth with special needs who waits in public foster care for a permanent family. The purpose of the Adoption Assistance Program is to aid an adoptive family to establish and maintain a permanent living arrangement for a child/youth who qualifies.

Adoption preparation is much more than helping a prospective adoptive family understand financial and medical assistance. It involves helping the family understand all the ways things will change as they go from fostering a child/youth to adopting and being the legal parent to a child/youth with special needs.

### Major objectives:

- A. The caseworker will begin to educate the permanent family about the changes adoption will bring to their family at the time reunification services are no longer offered or the permanency goal changes to adoption.
- B. The child and family team will help the prospective adoptive family assess what they will need to parent the child/youth in the present and in the future.
- C. The child and family team will help the prospective adoptive family begin to think about all the needs the child/youth has and the services that have been and/or will be required to meet those needs.
- D. The caseworker will help the family determine what they may or may not have available to them after the adoption.
- E. The caseworker, through the prior objectives, will help the family start thinking about their adoption assistance needs.

### **Applicable Laws**

Federal Law Title IV-B Part 2 Promoting Safe and Stable Families  
Federal Law Title IV Part E Adoption Assistance Program  
Federal Regulations 45 CFR 1356.22,30,40,41, 50, 60, and 71

Utah Code [§62A-4a-709](#). Medical assistance identification.  
Utah Code [§62A-4a-902](#). Definitions

Utah Code [§62A-4a-903](#). Eligibility.

Utah Code [§62A-4a-904](#). Adoption assistance.

Utah Code [§62A-4a-905](#). Supplemental adoption assistance.

Utah Code [§62A-4a-906](#). Termination or modification of adoption assistance.

Utah Code [§62A-4a-907](#). Interstate compact adoption assistance agreements.

Utah Administrative Code, Rule [R512-43](#). Adoption Assistance.

**Addresses Federal and State requirements for adoption assistance including determining eligibility, nonrecurring costs, monthly subsidy, medical assistance, supplemental assistance, termination of a subsidy, fair hearing, and interstate adoption assistance.**

#### Types of Adoption Assistance

- A. Reimbursement of Non-Recurring Adoption Expenses (SAR).
- B. State Medical Assistance (SA Medicaid).
- C. Monthly Subsidy (SUB Federal or SAP State).
- D. State Supplemental Adoption Assistance (SAC).
- E. For details see Utah Code [§62A-4a-902](#).

#### Adoption Support

In addition to adoption assistance, an adoptive child/youth and family may be supported with Federal Adoption Promotion and Support Funds, Promoting Safe and Stable Families Grant funding (FPA).

#### General Requirements for Adoption Assistance

- A. Child and Family Services is responsible for notifying a prospective adoptive family of the availability of adoption assistance when the family begins an adoptive placement of a qualified child/youth in public foster care.
- B. Adoption assistance is based upon the child/youth meeting qualifying factors, not the adoptive family.
- C. Basic Qualifying Criteria: A child/youth meets the basic qualifying criteria for adoption assistance if all of the following are met:

1. State Has Determined Child Cannot or Should Not Return Home: The state has determined that the child/youth cannot or should not be returned home. This means:
    - a. The child/youth received services through Child and Family Services and parents have voluntarily relinquished parental rights or the court has terminated parental rights.
    - b. The child/youth who is an SSI recipient at the time the adoption proceedings are initiated cannot return home because parents have voluntarily relinquished parental rights or the court has terminated parental rights.
  2. Efforts to Place Without Adoption Assistance: Child and Family Services has documentation that reasonable efforts were made to place the child/youth for adoption without adoption assistance.
    - a. An exception applies if the child/youth has significant emotional ties with the prospective adoptive family prior to the adoptive placement and it is not in the child/youth's best interest to consider a different adoptive placement.
  3. Child/Youth with a Special Need: The child/youth meets at least one of the following special needs factors:
    - a. Five years of age or older.
    - b. Under 18 years of age with a physically, emotional, or mental disability. A child is considered to meet this requirement if under age five years old and at risk of developing a physical, emotional, or mental disability due to specific factors identified in the child's or birth parents' health or social histories.
    - c. Member of a sibling group placed together for adoption.
- D. A child must be a U.S. citizen or qualified alien to receive adoption assistance.
- E. An application for adoption assistance is submitted to the regional Adoption Subsidy Committee on a form provided by Child and Family Services.
- F. Application for adoption assistance, approval, and completion of the adoption assistance agreement, including signatures of an adoptive parent and a representative from Child and Family Services, are to be completed prior to finalization of the adoption.
- G. Adoption assistance usually begins after finalization of an adoption. However, adoption assistance may be initiated at the time of placement if the child/youth is legally free for adoption, the adoptive home is approved, adoption

proceedings are initiated, an adoption assistance agreement is fully executed prior to placement, and foster care maintenance payments are not being provided for the child/youth.

- H. An adoption assistance agreement shall be approved and signed by an adoptive parent and Child and Family Services representative before any payments may be made to an adoptive family or before state medical assistance may be initiated.
- I. Refer to Administrative Rule [R512-43-3](#) General Requirements for Adoption Assistance for additional details. Also see Utah Code [§62A-4a-903](#). Eligibility.

Reimbursement of Non-Recurring Adoption Expenses (SAR)

- A. Child and Family Services may reimburse an adoptive family up to \$2,000 per child or youth for non-recurring adoption expense directly related to the legal adoption of a child/youth, such as, attorney fees, court costs, adoptive home study, health and psychological examinations of adoptive parents, supervision of placement, and transportation and reasonable costs of lodging and food for the child/youth and parents during the placement or adoption process.
- B. To qualify for reimbursement of non-recurring adoption expenses the criteria in the prior section "Basic Criteria for Adoption Assistance" must be met.
- C. The regional Adoption Subsidy Committee must approve non-recurring expenses.
- D. Adoptive parents are responsible to provide necessary receipts for reimbursement. This funding may not be provided in advance. It is a reimbursement of costs already incurred.
- E. Refer to Administrative Rule [R512-43-4](#) Reimbursement of Non-Recurring Adoption Expenses for additional details. Also Utah Code [§62A-4a-904](#). Adoption assistance.

F. Summary Table of Qualifications for Non-Recurring Costs Reimbursement.

<b>Requirements to Qualify for Reimbursement of Non-Recurring Costs</b>	
All three of the following must be met:	
1. The state has determined that the child cannot or should not be returned home.	
2. Child and Family Services has documentation that reasonable efforts were made to place the child or youth for adoption without adoption assistance OR the child has significant emotional ties with the prospective adoptive family prior to the adoptive placement and it is not in the child's best interest to consider a different adoptive placement.	
3. The child meets at least one of the following special needs factors:	
a. Five years of age or older.	
b. Under 18 years of age with a physically, emotional, or mental disability.	
i. A child is considered to meet this requirement if under age five years old and at risk of developing a physical, emotional, or mental disability due to specific factors identified in the child's or birth parents' health or social histories.	
c. Member of a sibling group placed together for adoption.	

G. Table of Frequent Types of Scenarios requesting Non-Recurring Cost.

<b>Licensed</b> Resource Family (including kin)	A child/youth in public foster care who is placed with a licensed resource family meets the qualifications for non-recurring cost if documentation shows the child/youth meets the three requirements in the prior summary table in this section.
<b>Unlicensed</b> Kin Caregiver	<p>The family qualifies for non-recurring costs if documentation shows the child/youth meets the general qualifying factors for adoption assistance.</p> <p>The first requirement for reimbursement of non-recurring cost may be met if Child and Family Services provided services and parental rights have been terminated voluntarily or by the court, and the child/youth may or may not have ever been in Child and Family Services custody. Documentation must also show that the child/youth could not be placed without adoption assistance or has an emotional tie to the adopting family and that the child/youth has a special need as defined in prior requirement table in this section.</p>
<b>Private or Independent</b> Adoption	A family that adopts through a private or independent adoption <b>only</b> qualifies for reimbursement of non-recurring costs if documentation shows the child/youth meets the three requirements in the prior requirement table in this section, <b>and</b> qualifies for Social Security Income (SSI) disability at the time the adoption proceedings are initiated or was a recipient of services by Child and Family Services.

Monthly Adoption Subsidy (AAM) and Medicaid (SA)

- A. Monthly financial adoption subsidy and Subsidized Adoption Medicaid promote adoptions of children and youth from foster care by financially helping adoptive

families meet the needs of the children/youth who they adopt. Children/youth who have been in foster care often have special needs from the trauma of abuse, neglect, grief, and loss. They may also have other special needs. The monthly financial adoption subsidy and Medicaid are designed to help adoptive families address special needs for which their adopted children/youth may struggle.

- B. The amount of monthly adoption subsidy to be paid for a child/youth is based on the child/youth's present and long-term treatment and care needs and available resources, including the family's ability to meet the needs of the child/youth. A combination of community resources, the parents' resources, and monthly adoption subsidy should cover the ordinary and special needs expenses of the child/youth projected over an extended period of time.
- C. The monthly subsidy may be used according to the parents' discretion. Some examples of the uses of the monthly subsidy payment are medical, dental, or mental health services not paid for by the state medical assistance or family insurance, special equipment for physically or mentally challenged children/youth, respite care, day care, therapeutic equipment, minor renovation of the home to meet special needs of the child/youth, damage and repairs, speech therapy, tutoring, specialized preschool based on needs of the child, private school, exceptional basic needs such as special food, clothing, and/or shelter, visitations with biological relatives, and cultural and heritage activities and information.
- D. Qualifying Child/Youth for Monthly Adoption Assistance: In order to qualify for a monthly adoption subsidy, the child/youth must meet the three BASIC QUALIFYING CRITERIA in the above section, AND must also meet the definition of a child/youth in public foster care, qualify for SSI, or be a prior recipient of Title IV-E adoption assistance.
  - 1. Child or Youth in Public Foster Care: For the purposes of adoption assistance, a child/youth is considered to meet the definition of a child/youth in public foster care if the child/youth was placed with the family who adopts from the temporary or legal custody with Child and Family Services. For example:
    - a. A child/youth is in foster care (state custody) until the adoption is finalized.
      - i. The child/youth is adopted either by a licensed foster care provider or an approved adoptive family through an upfront adoption subsidy, OR

- b. A child or youth who was taken into protective custody and, as a result of the protective episode, was placed with a relative who was given legal custody meets the definition of a child in public foster care. This includes:
    - i. If the court orders Child and Family Services to continue to provide Protective Supervision Services (PSS) for the family in making safety and permanency decisions for the child, including placement decisions and permanency goals. And
    - ii. This may include a change in placement to another relative while the PSS continue to be court ordered. OR
  - c. Guardianship of a child/youth in foster care is given to the licensed foster care provider and that provider adopts the child, OR
  - d. The parent of the child/youth to be adopted is in foster care and, although Child and Family Services did not take custody of the child/youth to be adopted, Child and Family Services did make a maintenance payment on the child/youth's behalf as the child/youth of a minor who is a foster care recipient, OR
  - e. The child/youth was placed in foster care with Child and Family Services through a Voluntary Placement Agreement and a foster care maintenance payment was made for the child/youth.
2. Supplemental Security Income (SSI) Recipient: The child/youth qualifies as a recipient of Supplemental Security Income (SSI) for a disability at the time the adoption proceedings are initiated. This means that prior to initiation of the adoption proceedings, the child/youth has received written notice from the Social Security Administration that he or she qualifies for SSI payments, or the child/youth has been receiving SSI payments.
3. Prior Title IV-E Subsidized Adoption: The child/youth was in a prior adoption in which a Title IV-E adoption assistance agreement was executed for monthly adoption subsidy.
4. Exclusions:
- a. A child/youth **cannot** qualify for adoption assistance if adopted by one of his or her biological parents whose parental rights were previously terminated.
  - b. A child/youth who is adopted through a private or independent adoption **cannot** qualify for a monthly adoption subsidy **unless** he or she qualifies as a recipient of SSI for a disability at the time the adoption proceedings are initiated.



- E. Eligibility for Federal Adoption Assistance: When the adoption subsidy worker has determined that a child/youth qualifies for adoption assistance, it is the responsibility of the eligibility worker to determine if the monthly adoption assistance is eligible for Title IV-E funding.
- F. Summary Table regarding Qualifications for Monthly Adoption Subsidy.

<b>Requirements to Qualify for Monthly Adoption Subsidy (including Medicaid only)</b>	
All three of the following must be met:	
<ol style="list-style-type: none"> <li>1. The state has determined that the child/youth cannot or should not be returned home.</li> <li>2. Child and Family Services has documentation that reasonable efforts were made to place the child/youth for adoption without adoption assistance OR the child/youth has significant emotional ties with the prospective adoptive family prior to the adoptive placement and it is not in the child/youth's best interest to consider a different adoptive placement.</li> <li>3. The child/youth meets at least one of the following special needs factors: <ol style="list-style-type: none"> <li>a. Five years of age or older.</li> <li>b. Under 18 years of age with a physically, emotional, or mental disability. <ol style="list-style-type: none"> <li>i. A child is considered to meet this requirement if under age five years old and at risk of developing a physical, emotional, or mental disability due to specific factors identified in the child's or birth parents' health or social histories.</li> <li>c. Member of a sibling group placed together for adoption.</li> </ol> </li> </ol> </li> </ol>	
In addition to the three requirements listed above, at least one of the following situations must also exist:	
<ul style="list-style-type: none"> <li>• Child/youth is in Utah's public foster care or was in foster care immediately prior to the adoptive placement.</li> <li>• Child/youth qualifies for SSI prior to the initiation of the legal adoption proceedings.</li> <li>• Child's parent is in foster care and child received a maintenance payment.</li> <li>• Child/youth was in prior Title IV-E subsidized adoption.</li> </ul>	
(Except in situations in which the child/youth is adopted by one of his or her biological parents.)	

G. Table of Frequent Types Scenarios requesting Monthly Adoption Subsidy

<b>Licensed</b> Resource Family	A child/youth in public foster care who is placed with a licensed resource family meets the qualifications for monthly adoption subsidy if documentation shows that the three requirements defined in the prior requirement table are met and the child/youth is adopted directly from foster care.
<b>Unlicensed</b> Kin Caregiver	A child or youth who was taken into protective custody and, as a result of the protective episode, was placed with a relative who was given legal custody meets the definition of a child in public foster care.  If the court then orders Child and Family Services to continue to

	<p>provide Protective Supervision Services for the family in making safety and permanency decisions for the child, including placement decisions and permanency goals, this also meets the definition of a child in foster care. This may include a change in placement to another relative while the Protective Supervision Services continue to be court ordered.</p> <p>The child would then qualify for monthly adoption subsidy if documentation shows the three basic qualifying factors defined in the prior requirement table are met.</p> <p>A child or youth <b>does not</b> qualify for monthly adoption subsidy if the child or youth was never in protective custody or foster care.</p>
<b>Private or Independent Adoption</b>	<p>A child/youth who is adopted through a private or independent adoption <b>only</b> qualifies for monthly adoption subsidy if documentation shows the three requirements defined in the prior requirement table are met <b>and</b> he or she qualifies for SSI disability at the time the adoption proceedings are initiated.</p>

- H. Follow the objectives under the Major objectives section above to begin the adoption assistance process.
- I. A child/youth who qualifies for adoption assistance should be provided with state medical assistance (Medicaid) if the child/youth has health factors that warrant Medicaid coverage. This may be provided to the child/youth with an Adoption Assistance Agreement, even if it is determined that no financial monthly adoption subsidy is needed.
- J. Process for Determining Monthly Subsidy Amount
1. The Monthly Adoption Subsidy may not be denied based on a means test of the adoptive family.
  2. The monthly financial subsidy is negotiated based on the level of needs of the child/youth to be adopted and the ability of the prospective adoptive family to meet those needs.
  3. The Adoptive Parent Statement of Disclosure items must be reviewed in depth by the caseworker and adoptive parent prior to subsidy negotiation.
  4. The caseworker will use the FORM AD 19b: Subsidy Consideration Guidelines to talk with the prospective adoptive family about the level of child/youth's special needs and the family's ability to meet those needs.
  5. Determining the amount of the monthly financial subsidy can be derived from the level of the child/youth's special needs outlined in the chart on

FORM AD 19b: Subsidy Consideration Guidelines and FORM AD 19c: Optional Assessment Tool.

6. The amount of the monthly subsidy may not exceed the payment that would be made if the child/youth was placed in a foster family home at the point in time when the Adoption Assistance Agreement is being initiated or revised.
7. After talking with the prospective adoptive family, the caseworker completes FORM AD21A: Subsidy Program Application and brings it with documentation regarding special needs of the child/youth to the Adoption Subsidy Committee for review and recommendation.
8. When the prospective adoptive family agrees on the negotiated monthly subsidy amount, the Adoption Assistance Agreement is signed by the prospective adoptive parents and returned to the Child and Family Services office, then signed by a Child and Family Services representative to initiate the monthly adoption subsidy, beginning the month following the final foster care payment.
9. Adoption Assistance Agreement will be written as a three-year agreement unless there are extenuating circumstances that would make a shorter time frame more appropriate. Writing an Adoption Assistance Agreements for less than a three-year time frame might include circumstances such as:
  - a. The youth will turn 18 years old prior to the end of the three-year time period. The Adoption Assistance Agreement would then be written to end corresponding with the time the youth turns 18 years old.
  - b. The family is adopting a sibling to a child/youth they had adopted previously. The subsidy worker would then write the Adoption Assistance Agreements so the renewal date would coordinate with the end date of the sibling's Adoption Assistance Agreement.
  - c. The monthly adoption subsidy is increased to meet the special needs of the child/youth for a limited time period, such as when a youth is admitted to a residential treatment program. The Adoption Assistance Agreement would then be written for a period of time up to one-year and reassessed based on the youth's special needs.
10. The amount of monthly adoption subsidy may increase or decrease when the child/youth's level of need or the family's ability to meet those needs changes. The family or the caseworker may initiate a change in the amount of monthly adoption subsidy at any time when needs or resources change.

11. The amount of the monthly adoption subsidy is subject to the approval of the regional Adoption Subsidy Committee. If the requested amount is not granted, the adoptive parent has a right to appeal.
- K. Refer to Administrative Rule [R512-43-5](#), Monthly Subsidy, and [R512-43-6](#), State Medical Assistance, for additional details. Also Utah Code Section [§62A-4a-709](#) Medical assistance identification.

#### Renewal and Review of Adoption Assistance

- A. Annually an Adoption Assistance Re-Certification letter and form will be sent to the adoptive parents of a child/youth who receives adoption assistance. The form:
  1. Verifies that the parents continue to be legally responsible to provide financial support for the identified adopted child/youth.
  2. Asks if there has been any changes in the child/youth's special needs or the family's circumstances that the family would like the Adoption Subsidy Committee to consider since the last Adoption Assistance Agreement was established.
- B. A signed Parent Certification and Assessment form is received from the adoptive parents to continue the monthly adoption subsidy.
- C. The adoptive family may request a change in the monthly adoption subsidy by submitting a request with documentation to the Adoption Subsidy Committee.
  1. If a change in the monthly adoption subsidy is determined to be warranted by the Adoption Subsidy Committee, an Amended Adoption Assistance Agreement is completed and signed by the parents and Child and Family Services representative.
- D. If the change in monthly adoption subsidy is not acted upon with reasonable promptness or the amount approved is less than the amount requested by the prospective adoptive parents, the prospective adoptive parents will be given notice that they may request a Fair Hearing with the Department of Human Services regarding the requested change.

#### Termination of Adoption Assistance

- A. A monthly adoption subsidy is in effect as long as the adoptive parents continue to be legally responsible to provide financial support for the identified adopted child/youth until the youth turns 18 years of age, unless any of the following reasons exist:

1. The adoptive parents fail to respond to the renewal request.
  2. The adoptive parents request termination of the Adoption Assistance Agreement.
  3. The adoptive parents' legal responsibility for the child/youth ceases.
  4. The state determines that the child/youth is no longer receiving financial support from the adoptive parents.
  5. The youth enters the military.
  6. The youth marries.
  7. The child/youth dies.
  8. Both of the adoptive parents die.
- B. The monthly adoption subsidy cannot be extended beyond the month of a youth's 18<sup>th</sup> birthday even if the youth is still in school, unless disabled as described below.
- C. The monthly adoption subsidy may extend until the youth reaches age 21 years old when the regional Adoption Subsidy Committee has determined that he or she has physical or mental disability as defined in the criteria for Department of Human Services, Division of Services for People with Disabilities (DSPD).
1. In such cases the young adult may also likely be eligible for SSI for a disability, the amount of the monthly adoption subsidy would be taken into account by the Social Security Administration in determining the SSI disability amount. Parents of an adopted young adult who has a disability will want to determine if there is an advantage in continuing with the monthly adoption subsidy. If the young adult meets the criteria for DSPD, he and she may also be eligible for an array of adult special services, when available.
- D. Termination of State Medical Assistance (Medicaid) is subject to the policies of the Division of Health Care Financing, Department of Health.
1. For a youth who is not Title IV-E eligible, Subsidized Adoption Medicaid terminates at age 18, even if adoption assistance continues due to disability. The youth may qualify for continuing Medicaid coverage until age 19 under another Medicaid program.
  2. For a youth who is Title IV-E eligible, Subsidized Adoption Medicaid may continue until the Adoption Assistance Agreement ends. This means the Subsidized Adoption Medicaid may continue for a disabled youth up to age 21, if the Adoption Assistance Agreement is extended. If the Title IV-E Adoption Assistance Agreement ends at age 18, the youth may qualify

for continuing Medicaid coverage until age 19 under another Medicaid program.

- E. Refer to Administrative Rule [R512-43-10](#), Termination of Adoption Assistance, for additional details. Also Utah Code [§62A-4a-906](#) Termination or modification of adoption assistance.

#### Interstate Adoption Assistance

- A. If a child/youth in Utah foster care is placed for adoption with parents in another state, Utah's Child and Family Services is responsible to determine if the child/youth qualifies for adoption assistance. If the child/youth qualifies, Utah's Child and Family Services provides adoption assistance regardless of the state of residence of the adoptive family.
- B. If a child/youth with a previous Title IV-E Adoption Assistance Agreement enters public foster care because the adoption was dissolved or ended due to the result of the death of the parents, the state in which the child/youth is taken into custody in public foster care is responsible to provide adoption assistance in a subsequent adoption.
- C. If a child/youth with a previous Title IV-E Adoption Assistance Agreement does not enter public foster care when the adoption dissolved or ended due to the death of both parents, the new adoptive parent is responsible to apply for adoption assistance in the new adoptive parent's state of residence.
- D. A parent desiring to adopt an out-of-state child/youth who is not in public foster care but is receiving SSI for a disability shall apply for adoption assistance in the parent's state of residence.
- E. Provision of Medicaid is subject to the Interstate Compact on Adoption and Medical Assistance (ICAMA).
- F. Other services the child/youth may need prior to finalization of the adoption are requested in the receiving state through the Interstate Compact for the Placement of Children (ICPC).
- G. If a needed service specified in the ICPC agreement is not funded by the new state of residence, the state making the original adoption assistance payment remains financially responsible for paying for the specific service.

Supplemental Adoption Assistance (SAC)

- A. Supplemental Adoption Assistance may be available for a child/youth who meets all the qualifying criteria for a monthly adoption Subsidy and for whom an Adoption Assistance Agreement is in effect.
- B. Supplemental Adoption Assistance may only be used for extraordinary, infrequent, or uncommon documented needs not covered by a monthly adoption subsidy, state medical assistance, or other public benefit for which a child/youth who has special needs is eligible.
- C. Supplemental Adoption Assistance is subject to the availability of state funds appropriated for adoption assistance. It is not an entitlement and will be granted only when justified by unique needs of the child/youth and when all other resources for which a child/youth is eligible have been exhausted.
- D. The post adoption or adoption subsidy worker will request verification from the payment technician to check USSDS for any payments made to DSPD for the same child/youth.
  - 1. If there are no payments to the same child/youth in DSPD records, then the worker may proceed to assess the request for SAC funding.
  - 2. If there are payments to the same child/youth in the DSPD database, then the worker will check to see if there have been payments in the last six months. If not, the worker may proceed to assess the request for SAC funding.
  - 3. If there have been DSPD payments for the same child/youth in the past six months, then the worker will check the DSPD payment against the request the parent has made for SAC funding. If the request is for a different service, then the worker may proceed to assess the request for SAC funding.
  - 4. If the request for SAC funding is for the same service as the DSPD payment, the SAC request will be denied.
  - 5. A DSPD worker will be identified in each region to address additional questions regarding DSPD payments for services for children/youth adopted or receiving services through Child and Family Services.
- E. An email will be sent to the post adoption or adoption subsidy worker as well as the supervisor of the worker regarding the DSPD services purchased for the same child/youth in the same period of time for whom SAC funds are being requested.

- F. Documented requests for Supplemental Adoption Assistance, including amendments or renewals, will be considered by the Adoption Subsidy Committee in the region where the adopted child's monthly adoption subsidy is managed.
  - 1. Requests for amounts up to \$3,000 will be considered by the regional Adoption Subsidy Committee.
  - 2. Requests for amounts from \$3,001 to \$10,000 will be considered by the appropriate regional advisory committee established under Utah Code [§62A-4a-905\(2\)](#).
  - 3. Requests for amounts exceeding \$10,001 will be considered by a state level advisory committee with the same membership composition as the regional advisory committee established under Utah Code [§62A-4a-905\(2\)](#).
  - 4. Recommendations from the advisory committee are subject to the approval of the region director or designee.
- G. When the amount of the Supplemental Adoption Assistance is approved by the appropriate committee, a Supplemental Adoption Assistance Agreement will be initiated for signature by the adoptive parents.
  - 1. The Supplemental Adoption Assistance Agreement will include both an amount and a time limit.
- H. Refer to Administrative Rule [R512-43-7](#), Supplemental Adoption Assistance, for additional details. Also see Utah Code [§62A-4a-905\(2\)](#).

#### Fair Hearings

- A. An adoptive family may request a fair hearing if:
  - 1. The Adoption Assistance Application is denied;
  - 2. The Adoption Assistance Application is not acted upon with reasonable promptness;
  - 3. Adoption assistance or supplemental adoption assistance is reduced, terminated, or changed without the concurrence of the adoptive parents;
  - 4. The amount of adoption assistance or supplemental adoption assistance approved was less than the amount requested by adoptive parents;
  - 5. Adoption assistance was denied because it was requested after finalization of the adoption.
- B. Refer to Administrative Rule [R512-43-11-2](#) for more information.



Federal Adoption Promotion and Support, Promoting Safe and Stable Families (FPA) Funding

- A. Adoption Promotion and Support, Promoting Safe and Stable Families (FPA) federal funding is available to each state. The purpose of this program is to enable states to promote and support adoption services and activities designed to encourage more adoptions out of foster care. Activities include pre- and post adoptive services designed to expedite the adoption process and support adoptive families to make a lifetime commitment to their children/youth.
- B. FPA funds may be used within Child and Family Services for services to promote and support adoption.
- C. FPA funds may be used to contract for services to promote and support adoption.
- D. FPA funding may be used to help adoptive families directly.
  - 1. A family who adopts a child/youth from Child and Family Services.
  - 2. An adoptive family who is utilizing the services of Child and Family Services.

Federal Adoption Promotion and Support, Promoting Safe and Stable Families (FPA) Funding Regional Guidelines

- A. Each fiscal year each region is given an equal amount of base FPA funding, with the remaining FPA funding divided by the percent of adoptive families with Adoption Assistance Agreements who reside in the region.
- B. Annually each region will plan how the FPA funding will be best used in their region. Allocation of some funding for predictable requests such as the annual adoption conference and therapeutic summer programs could be part of the annual planning process.
- C. When considering a request for FPA funding, the post adoption or adoption subsidy worker will determine that the service is not available through Medicaid or other community funded services.
- D. FPA funds paid directly to a family cannot exceed \$2,000 per family per fiscal year. FPA payments to a family are taxable income. Direct payments to families are discouraged.

- E. Direct payment to a service provider may exceed \$2,000 with appropriate bids and contracts, as required by state procurement requirements.

Determining the Appropriate Funding Source

- A. When either State Supplemental Adoption Assistance (SAC) or federal Adoption Promotion and Support, Promoting Safe and Stable Families (FPA) funding could be appropriate for a funding request, the following guidelines should be considered:
  - 1. Federal funds should be considered before state funds to assure all federal funds (which include a state match) are used in each fiscal year.
    - a. If the monthly adoption subsidy is from federal Title IV-E funds, it may be appropriate to amend the Monthly Subsidy Agreement for a limited time period, when a child/youth would qualify for a higher subsidy to cover the costs. An example of higher costs might be room, board, and educational costs of a residential treatment program.
    - b. The federal FPA funds (which includes a state match) should be considered for use before State Supplemental Adoption Assistance.
    - c. The federal FPA funds are best used for time-limited expenditures of less than \$2,000 per family.
  - 2. State Supplemental Adoption Assistance funds are best used for extensive, expensive, or long-term costs after it is determined that increasing Title IV-E monthly adoption subsidy and federal FPA funding are not appropriate or available.

## 401.10 Access To Adoption Records

### Major objectives:

- A. Child and Family Services Adoption Records - When parental rights are terminated, the caseworker shall create a new file for the child from relevant information in the child's family file. The caseworker shall establish a separate file for each child or each sibling group placed with the same adoptive home.
- B. Access to Adoption Records - The information in the file relevant to an adopted child may be accessed by the adult adoptee or the adoptive parents. Identifying information about biological parents shall not be released by Child and Family Services, unless ordered by the court. A biological parent who has relinquished parental rights may only access case information up to the time of relinquishment. Information in the family file may be accessed as specified in the GRAMA procedures for Child and Family Services.

## Applicable Law

Utah Code Ann. [§78-30-15](#). Petition, report, and documents to be sealed -- Exceptions.

### Procedures

- A. An option for sharing adoption information is a cooperative adoption, which is an agreement between adoptive parents and the birth family that allows sharing of information and/or maintaining a relationship between the child and identified members of the birth family, such as birth parents, grandparents, or other extended family members.
- B. Adoptee Request for Information - The region director shall designate staff who will respond to the following requests for information:
  - 1. Request for Identifying Information - An adult adoptee seeking identifying information about biological parents shall be referred to the court. If contact with the biological parents is desired, the caseworker may also suggest that the adoptee register with the Utah Department of Health Adoption Registry. [See: Utah Code Ann. [§78-30-18](#).]
  - 2. Request for Non-identifying Information - An adult adoptee seeking non-identifying information about biological parents, such as genetic and social history or health history [Utah Code Ann. [§78-30-16](#)], may request information from the Bureau of Vital Records as specified in Utah Code Ann. [§78-30-17](#).

- C. Biological Parent Request for Information - A biological parent requesting information about a child after relinquishment of parental rights shall be notified that information about the child may only be released by court order. It is the responsibility of the biological parents to obtain a court order. The caseworker may also suggest that the biological parent register with the Utah Department of Health Adoption Registry if contact with the child is desired. [See: Utah Code Ann. [§78-30-18.](#)]

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